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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

- :-
O.A.No. 113 of 1989.

Date of Decision: 19.2.90

Between:

K. Appavadhanulu. Applicant

and

The Director General, Geological
Survey of India, No.27, Jawaharlal
Nehru Road, Clacutta-3 and
another. Respondents.

Sri V. Pattabhi, Counsel for the Applicant: (Not present)

Sri G. Barameswara Rao, Advocate for Sri P. Ramakrishna Raju, Sr. CGSC.

Judgment of Single Member Bench
pronounced by Hon'ble Sri J. Narasimha-
murty, Member (Judl.).

This application is filed seeking a direction
to the respondents to pay interest on the amounts
of death-cum-retirement gratuity (DCRG) and lumpsum
amount in lieu of pension payable to the applicant
at the prevailing market rate or at 14% from the
due date.

The averments briefly stated in the applica-
tion are as follows:

While the Applicant was working as Senior
Geologist in Geological Survey of India, ~~the aman~~
he ~~ex~~ opted for deputation to Mineral Exploration
Corporation Limited, a Government of India under-
taking and joined there on 25-1-1973. While on
deputation, he was promoted as Director in G.S.I.,
with effect from 6-9-1973.

(v)

The applicant then exercised option for permanent absorption in Mineral Exploration Corporation.

The 2nd respondent issued an order for permanent absorption of the applicant in Mineral Exploration Corporation Limited (M.E.C., for short) in public interest with effect from 31--12--1975 A.N. by letter No.12(55)/77-M III dated 18--8--1977 of the Deputy Secretary, Ministry of Steel and Mines, New Delhi.

By virtue of the absorption of the applicant in M.E.C., the applicant was deemed to be retired from G.S.I., with effect from 31--12--1975A.N. and was declared eligible for the following prorata retirement benefits.

- i)Pension;
- ii)Death-cum-retirement gratuity(DCRG)
- iii)Receive prorata monthly pension and DCRG., or

Receive DCRG and lumpsum amount in lieu of pension worked out with reference to commutation tables obtaining on the date from which pension will be admissible and payable under option orders.

The applicant has accordingly opted for the lumpsum amount in lieu of monthly pension. In addition to this lumpsum amount, he was also eligible for D.C.R.G. Inspite of the applicant so opting, there was no communication from the G.S.I., about the payment of the lumpsum amount and D.C.R.G. The applicant addressed number of letters to the 1st respondent to expedite the matter relating to his lumpsum and D.C.R.G. payments.

3. The applicant states that after 68 months when the payment of the pensionary amount and D.C.R.G.

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became due to the applicant, a cheque for Rs.19,300/- was received by him on 28-8-1981 towards the DCRG amount.

4. The applicant states that the pension papers were finally processed in July/August 1981 to calculate the lumpsum amount due to him as per option. Medical Examination was completed on 29-9-1981 and the medical report was sent to G.S.I., on 12-10-1981 by the Medical Board. Monthly pension for the period from January, 1976 to part of March, 1982 was paid to the applicant in two instalments i.e., in December, 1981 and May, 1982. The applicant states that this entailed a delay of about 72 months for recovery of the pension of the first month after retirement. These amounts were paid in lieu of the lumpsum amount opted by the applicant but not finalised by the G.S.I., till then. Finally, the lumpsum amount was received in March, 1982 i.e., after a period of over 74 months since the date of retirement. The applicant then made a claim of Rs.85,862/- towards interest payable for the period of delay in disbursement of his fully commuted pension and DCRG. In response to this claim of the applicant, the 1st respondent addressed some letters to the 2nd respondent seeking instructions in this regard. Finally, the applicant was compelled to issue a legal notice dated 3-11-1986 to the 2nd respondent for the payment of his claim of Rs.85,862/- ~~with~~

5. The 2nd respondent addressed the 1st respondent in February, 1987 informing him that the legal notice issued by the applicant was under consideration of legal cell of the Department. The 1st respondent requested the 2nd respondent to intimate the date from which the interest had to be counted for delayed payment

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of gratuity and there was continuous representations from the applicant to the respondents.

6. Later the 1st respondent sent a cheque for Rs.1,892/- in January, 1988 towards interest relating to DCRG at the rate of 5% per annum for the period from 11-7-1979 to August 1981 i.e., for only about 24months on the amount of Rs.19,320/- The applicant accepted it deeming it as part payment of the claim under protest without any prejudice to recover the total claim made earlier. Even this cheque was not honoured and it was returned. Subsequently the 1st respondent sent a Demand Draft for the same amount which was received by the applicant.

7. ^{He} The last got issued another legal notice dated 3-2-1988 to the 1st respondent demanding the settlement in full of the applicant's claim. The applicant gave another notice dated 9-4-1988 for which he received a reply from the 2nd respondent that the matter was being examined. As there was no response after this communication, he again sent a reminder legal notice on 18-7-1988. He has not received any reply. Hence he filed this application for the above relief.*

8. The respondents filed their counter contending as under:

The applicant was initially appointed in the Geological Survey of India Organisation as a Geological Assistant in 1952 was promoted as Assistant Geologist in 1953, (Geologist (Jr)), in 1960, Geologist (Senior) in 1962. He went on deputation to the Mineral Exploration Corporation Ltd., with effect from 25-1-1973. While he was on deputation

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with the Mineral Exploration Corporation Ltd., he was promoted as Director of Geological Survey of India, a proforma promotion with effect from 6-9-1973. Later he was permanently absorbed in Mineral Exploration Corporation Ltd., with effect from 34-12-1975 vide Ministry of Steel & Mines (Department of Mines) letter No.12(55) & 77-M.III dated 1-8-1977.

9. On his permanent absorption, the applicant became entitled to Death-cum-retirement Gratuity and Pension on a monthly pro-rata basis or lumpsum amount in lieu of pro-rata pension subject to his exercising option within six months of the approval by the Administration. The approval for grant of pensionary benefits was received on 12-8-1977. The applicant had exercised option for payment of lumpsum amount in lieu of pro-rata pension which was received in the office on 8-12-1977. He was advised to submit option with effect from 1-11-1977 and the same was received on 8-12-1977. He was further advised to furnish service documents in respect of non-gazetted service as the Service Book was not available vide letter dated 4-1-1978. He was also requested on 28-7-1978 to confirm the particulars of his family members submitted by him on 15-9-1976 for finalisation of his pension case. He was informed on 6-10-1978 about requisition of his Last Pay Certificate from the Mineral Exploration Corporation Ltd., and a reminder was issued on 4-12-1978.

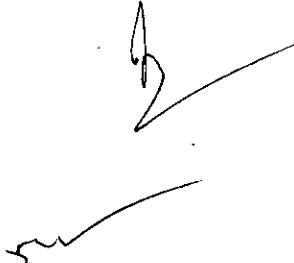
10. The respondents have given all the details of the processing of the pension papers from stage to stage in the counter and its Annexure.

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11. The respondents while admitting that there was some delay in finalisation of the pension case, they have stated that there was no wilful delay or negligence on the part of the Department but that was due to procedural complexity and also arising out of the fact that accounts were departmentalised in April 1976 and earlier records were to be obtained from concerned audit offices. His case was one among the 241 cases and the processing of the case of the applicant was started immediately after receipt of the orders regarding his permanent transfer to Mineral Exploration Corporation Ltd. The action taken in the case is shown at the Annexure "A" in chronological order with an explanation thereunder.

12. For processing the pension case, the Service Card, service statement (Gazetted) had to be obtained and sent thrice to the Audit Office for purpose of completion of entries. Once it was with them for more than a year and returned back without completing the entries, The sanction for release of pensionary benefits was received from the Ministry on 12--8--1977. The action taken thereafter is explained below in the chronological order.

The Service Card in the pension section was received only in November, 1977. Immediately thereafter, the accounts section was asked to send the Service Statement but they reported that the same was not available with them. The Audit Office was requested to complete the entries in the Service Card and send the service statement duly completed. The Audit Office in turn asked this office to complete the entries. It was sent to Accounts-I Section (Central Headquarters, Calcutta) on 3--3--1978 for necessary action as per the instructions of the Audit. The documents were received back on 19-6-1978. The Last Pay Certificate was received on 5--1--1979 from the Mineral Exploration



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Corporation after reminders on 20--7--1978, 6--10--1978 and 4--12--1978 on completion of all the formalities including Director General's sanction, the matter was submitted to the Pay and Accounts Office on 5--4--1979

The Pay and Accounts Office returned the case on 5----6--1979 pointing out several defects in service documents, including the objection on entries in service documents by this office. The service documents had to be sent to the concerned sections i.e., the Accounts Section, for rectification of the defects on 16--6--1979.

The Gazetted service card, service statement were sent to the Sr. Dy. Accountant General, Commerce, Works & Misc. Calcutta on 18--8--1979. The Audit Office returned the same on 3--9--1980 with objections on recovery of leave salary and pension contributions and leave particulars and for non-receipt of the Order on permanent absorption.

After attending to the said objections the case was again sent to the Pay & Accounts office on 26--11--1980.

However, the case was returned back again by the Pay & Accounts Office on 12-1-1981 pointing out some discrepancies in the completion of average emoluments, entries in service card etc., and for recovery of the leave salary and pension contribution. After rectifying the defects the case was resubmitted to the Pay & Accounts Office on 12--5--1981. It was only then the payment order and authorisation for drawal of gratuity was issued i.e., 8--7--1981.

Thus the delay in finalising the pension case was on account of (i) the complex nature of the case (ii) want of service records and other allied particulars which had to be obtained from different sections of the Central Headquarters, Calcutta, the Director of Audit, the Retiring Officer himself and the Department of Mines for according necessary administrative approval, besides answering piece-meal objections received from the Controller of Accounts from time to time. Inspite of best efforts put in by the Department, the case could not be finalised earlier.

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13. The Ministry held that interest for delay in payment of gratuity was payable with effect from 11-7-1979 by its letter No.A-38020/9/84-M.2 dated 1-6-1987. The delay of 74 months in finalisation of the case of pensionary benefits is not acceptable as per clarification given by the Ministry in the aforesaid letter and details of the progress of the case are fully explained. A demand draft for Rs.1,892/- towards interest for delayed payment of gratuity was sent to the applicant on 10-5-1988

14. Rule 68 of the Central Civil Services (Pension)Rules,1972 provides for payment of interest on delayed payment of Death-cum-retirement gratuity @ 5% (the then existing rate of interest) but there is no such provision in the said rules for delayed payment of pro-rata pension. Accordingly Sri A.Gopal Rao who gave a legal notice dated 7-10-1987 in this regard was requested to quote the relevant rules & under which interest on delayed payment of pension is admissible so that the case could be re-examined but there is no reply. There are no merits in the application and is liable to be dismissed.

15. Sri V.Pattabbi, learned counsel for the applicant and Sri G. Parameswaran Rao for P. Ramakrishna Raju Additional Standing Counsel argued the matter.

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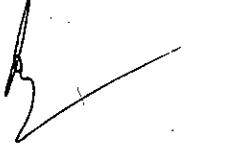
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16. So far as the appointment of the applicant in Geological Survey of India, his promotions in that Department and his deputation to Mineral Exploration Corporation Limited and his permanent absorption are concerned, there is no dispute between the parties. The respondents have also admitted that the applicant is entitled to D.C.R.G., and lumpsum amount in lieu of pension and pension. They have also admitted that there is some delay in paying the D.C.R.G., and they with interest have paid the gratuity/for the period of delay which they have considered it legitimate.

17. The applicant states that there is abnormal delay of over 74 months in settling his claims, the Department says that there is no abnormal delay in settling his claims. They also state that after protracted correspondence, the Ministry held that interest for delay in payment of gratuity was payable with effect from 11-7-1979. Accordingly for the period of delay the applicant was paid by way a a Demand Draft a sum of Rs.1,892/- towards interest on 10-5-1988.

18. Now the short point that arises for consideration in this Application is:

Whether there is delay in settling the claims of the Applicant, if so whether it is wilful delay or negligence on the part of the Department or whether it was due to complex nature of the case annexed and for want of service records?



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19. The respondents have stated that the Service Card in the pension section was received only in November, 1977. Immediately thereafter, the accounts Section was asked to send the Service Statement but they reported that the same was not available with them. The Audit Office was requested to complete the entries in the Service Card and send the Service Statement duly completed. ^{Respondents} The Audit Office in turn asked the ~~the~~ Office to complete the entries. It was sent to Accounts-I Section (Central Headquarters, Calcutta) on 3-3-1978 for necessary action as per the instructions of the Audit. The Documents were received back on 19-6-1978. The last pay Certificate was received on 5-1-1979 from the Mineral Exploration Corporation after reminders on 20-7-1978, 6-10-1978 and 4-12-1978 on completion of all the formalities including Director General's sanction, the matter was submitted to the Pay and Accounts Office on 5-4-1979.

20. The Pay and Accounts Office returned the case on 5-6-1979 pointing out several defects in service documents, including the objection on entries in service documents by the Respondents' Office. The Service documents had to be sent to the concerned sections i.e., the Accounts Section, for rectification of the defects on 16-6-1979.

21. The Gazetted Service Card, Service Statement were sent to the Sr. Dy. Accountant General, Commerce, Works & Misc. Calcutta on 18-8-1979. The Audit Office returned the same on 3-9-1980 with objections on recovery of leave salary and pension contributions and leave particulars and for non-receipt of the Order

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on permanent absorption. After attending to the said objections the case was again sent to the Pay and Accounts Office on 26--11--1980.

22. The Case was returned back again by the Pay and Accounts Office on 12-1-1981 pointing out some discrepancies in the completion of average emoluments, entries in Service Card etc., and for recovery of leave salary and pension contribution. After rectifying the defects the case was re-submitted to the Pay and Account Office on 12-5-1981. It was only then the payment order and authorisation for drawal of gratuity was issued on 8-7--1981.

Thus the delay in finalising the pension case was on account of the complex nature of the case, want of service records and other allied particulars which had to be obtained from different sections of the Central Head Quarters. Inspite of best efforts put in by the Department the case could not be finalised earlier.

23. The above narration of facts from stage to stage, reveal that there is no intention, negligence or wilful delay on the part of the Department. The Department has taken steps so promptly as can be seen from the record. But due to the reasons mentioned above, some delay has occurred in settling the claim of the applicant for which the Ministry of Steel and Mines, Department of Mines granted interest from 11--7-1979 by its O.M.No.A-38020/9/84-M. 2 dated 1-6-1987.

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To:

1. The Director General, Geological survey of India, No.27, Jawaharlal Nehru Road, Calcutta-13.
2. The Secretary, Government of India, Ministry of Steel and Mines, Department of Mines, Shastri Bhavan, New Delhi.
3. One copy to Mr.V.Pattabhi, Advocate, 76, MIGH Colony, Mehdipatnam, Hyderabad-500 028.
4. One copy to Mr.P.Ramakrishna Raju, Sr.CGSC, CAT, Hyderabad.
5. One spare copy.

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Received on 19/1/80
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24. Rule 68 of the Central Civil Services (Pension) Rules, 1972 provides for payment of Interest on delayed payment of Death-cum-retirement gratuity at 5% (the then existing rate of interest) but there is no such provision in the said rules for delayed payment of pro-rata pension. When the applicant was asked to show the ^{rule} relavent/under which he is entitled for interest on pro-rata pension and lumpsum amount in ~~vieu~~ of pension, he is not able to show any rule to that effect. During the course of the arguments also, learned counsel for the applicant has not shown any rule to me that the applicant is entitled for interest on prorata ~~interest~~ pension and ~~is~~ on lumpsum amount in lieu of pension for delayed payment. Hence the applicant is not entitled for any interest on those amounts.

25. In the circumstances, ~~as~~ I find that ^{useful} there is no delay of more than 74 months as claimed by the applicant in settling the claims of the applicant except the period of delay as admitted by the Department of Mines, Ministry of Steel and Mines for which the applicant was paid interest on the gratuity amount according to rules. There is no provision for granting interest on the pro-rata pension and lumpsum amount in lieu of pension.

26. In the result the Application fails and it is accordingly dismissed. No costs.


(J. NARASIMHAMURTY)
Member (Judicial)

Date: 19.2.1990